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MOSS LANDING COMMERCIAL PARK LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MOSS LANDING COMMERCIAL PARK
LLC,

Plaintiff,

v.

KAISER ALUMINUM CORPORATION,
KAISER ALUMINUM & CHEMICAL
CORPORATION, and DOES 1 through
100,

Defendants.

CASE NO. C07 06072 RMW/PVT

**PLAINTIFF'S CASE MANAGEMENT
STATEMENT**

Plaintiff Moss Landing Commercial Park, LLC submits the following Case Management
Statement:

1. Jurisdiction and Service:

This Court has subject matter jurisdiction under 28 U.S.C. § 1331 in that this case arises
under 42 U.S.C. § 6972, 33 U.S.C. § 1365 and 28 U.S.C. §§ 2201 and 2202 and supplemental
jurisdiction under 28 U.S.C. §§ 2201 and 2202. Service is complete.

2. Facts:

This case involves the contamination of real property located adjacent to Highway 1,
Dolan Road, Monterey Bay, and Moro Cojo Slough (the "Property"). Plaintiff Moss Landing

1 Commercial Park, LLC (“MLCP”) is the current owner of the Property. MLCP alleges in its
2 complaint that Kaiser Aluminum Corporation and Kaiser Aluminum and Chemical Corporation
3 (collectively, “Kaiser”) contaminated the Property and remain responsible for its remediation.
4 Accordingly, Plaintiffs request from this Court, among other things, an injunction requiring them
5 to do so.

6 3. Legal Issues:

7 Subsequent to service of MLCP’s complaint, defendants filed their Motion of
8 Reorganized Debtors to (A) Enforce Injunctions Issued in Connection with the Second Amended
9 Joint Plan of Reorganization and (B) Compel Moss Landing Commercial Park LLC to Dismiss
10 with Prejudice Its Lawsuit Against Kaiser Aluminum Corporation and Kaiser Aluminum &
11 Chemical Corporation in the United States Bankruptcy Court for the District of Delaware. This
12 motion was heard in Wilmington, Delaware on February 25, 2008. The bankruptcy court granted
13 the motion, found that this action should be dismissed without prejudice, and requested Kaiser to
14 prepare a proposed order. Kaiser has since submitted its proposed order to the bankruptcy court.
15 However, as of the date of this filing, the order has not yet been entered in the bankruptcy court’s
16 docket. MLCP intends to file an appeal of the bankruptcy court’s ruling. Further, if necessary,
17 MLCP will apply for an order providing that this action be stayed rather than dismissed.

18 As matters now stand, this action will either be dismissed or stayed in the immediate
19 future and no action by this Court need be taken.

20 4. Motions:

21 No motions shall be filed prior to resolution of the pending bankruptcy matter.

22 5. Amendment of Pleadings:

23 No amendments are expected at this time.

24 6. Evidence Preservation:

25 Plaintiff has been instructed by counsel to preserve all evidence which may concern this
26 dispute, including all electronic evidence.

27 7. Disclosures:

28 Due to the bankruptcy proceeding, the parties have not yet exchanged initial disclosures.

8. Discovery:

No discovery has been conducted. In light of the discussion in Paragraph 3, no ruling with respect to discovery is at this time necessary.

9. Class Actions:

There is no foreseeable reasons why this action should be treated as a class action.

10. Related Cases:

This action is related to *In re Kaiser Aluminum Corporation*, Jointly Administered Case No. 02-10429 in the United States Bankruptcy Court for the District of Delaware.

11. Relief

Plaintiffs seek an injunction requiring Kaiser to remediate the contamination of real property located adjacent to Highway 1, Dolan Road, Monterey Bay, and Moro Cojo Slough

12. Settlement and ADR

Not at this time.

13. Consent to Magistrate Judge for All Purposes:

Not at this time.

14. Other References:

Not at this time.

15. Narrowing of Issues:

Not at this time.

16. Expedited Schedule:

Not at this time.

17. Scheduling:

Not at this time.

18. Trial:

MLCP demanded a jury trial. The trial of this matter is expected to take ten court days.

19. Disclosure of Non-party Interested Entities or Persons:

Should MCLP succeed in its appeal of the bankruptcy court's order, it will satisfy this requirement.

1 20. Other

2 MLCP will notify this Court within 14 days if any court ruling on the bankruptcy matter
3 enters an order which permits MLCP to commence a new action against Kaiser or permits it to lift
4 the stay, if any.

5
6 Dated: March 20, 2008

ROPERS, MAJESKI, KOHN & BENTLEY

7
8 By: /s/
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10 TIMOTHY A. DOLAN
11 Attorneys for Plaintiff MOSS
12 LANDING COMMERCIAL PARK
13 LLC

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